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8 Attorneys for Plaintiff

10 UNITED STATES DISTRICT COURT  
11 NORTHERN DISTRICT OF CALIFORNIA  
12 SAN JOSE DIVISION

13 UNITED STATES OF AMERICA, ) CR 10-00731 LHK  
14 Plaintiff, ) STIPULATION AND [PROPOSED]  
15 ) ORDER CONTINUING STATUS  
16 v. ) CONFERENCE AND DOCUMENTING  
KENNETH NGUYEN HAI LE, ) EXCLUSION OF TIME  
17 Defendant. )  
18 \_\_\_\_\_

19 The defendant, Kenneth Nguyen Hai Le, and the government together respectfully  
20 stipulate as follows:

- 21 1. A status conference is currently scheduled in this matter on December 21, 2011 at 10:00  
22 a.m. The purpose of the status conference is advise the Court as to the status of a  
23 potential disposition of the case;  
24 2. The parties hereby advise the Court that the parties are continuing to confer over a  
25 potential disposition and believe that a disposition will be reached at the next Court  
26 appearance;  
27 3. According to a Petition for Arrest Warrant filed by U.S. Pretrial Services in this case  
28 [Docket #84], defendant was arrested on November 30, 2011, and is currently in custody

1 at Santa Clara County Jail.

- 2 4. The attorney for the government learned of defendant's arrest on December 2, 2011,  
3 when the petition was filed. The attorney for the government filed a Petition for Writ of  
4 Habeas Corpus Ad Prosequendum on December 8, 2011, requesting defendant's presence  
5 for the December 21, 2011, appearance in this Court.  
6 5. A representative for the U.S. Marshals Service informed the attorney for the government  
7 on December 18, 2011, that the defendant could not be produced in time for the  
8 scheduled December 21, 2011, appearance.

9 Accordingly, the parties request a continuance of the status conference to enable the attorney  
10 for the government to seek a new Writ of Habeas Corpus Ad Prosequendum and to allow the  
11 counsel for the defense to discuss the final disposition with the defendant. To ensure enough time  
12 for the writ to be executed, the parties request that the Court set the matter for change of plea or  
13 status conference on January 18, 2012, at 10:00 a.m. The parties jointly request that the Court  
14 exclude the period of time between December 21, 2011, and January 18, 2012, under the Speedy  
15 Trial Act based on the unavailability of the defendant, whose presence could not be obtained  
16 despite the government's due diligence and for effective preparation of counsel. See 18 U.S.C. §§  
17 3161(h)(3)(A) and (B), (7)(A) and (B)(iv).

18 IT IS SO STIPULATED.

19  
20 Dated: December 20, 2011

21 \_\_\_\_\_ /s/  
22 THOMAS FERRITO  
Counsel for Defendant

23  
24 Dated: December 20, 2011

25 MELINDA HAAG  
United States Attorney

26 \_\_\_\_\_ /s/  
27 MICHELLE J. KANE  
Assistant United States Attorney

1 ORDER  
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3 The Court finds that, taking into the account the public interest in the prompt disposition of  
4 criminal cases, granting the continuance until January 18, 2012, is necessary due to the  
5 unavailability of the defendant and for effective preparation of defense counsel. *See* 18 U.S.C. §§  
6 3161(h)(3)(A) and (B), (7)(A) and (B)(iv). Given these circumstances, the Court finds that the  
7 ends of justice served by excluding the period from December 21, 2011, to January 18, 2012  
8 outweigh the best interest of the public and the defendant in a speedy trial. *Id.* § 3161(h)(7)(A).

9 Accordingly, and with the consent of the defendant, the Court (1) sets a hearing on January  
10 18, 2012, at 10:00 a.m. and (2) orders that the period from December 21, 2011, to January 18,  
11 2012, be excluded from Speedy Trial Act calculations under 18 U.S.C. §§ 3161(h)(3)(A) and (B),  
12 (7)(A) and (B)(iv).

13 IT IS SO ORDERED.  
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15 Dated: 12/21, 2011  
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LUCY H. KOH  
United States District Judge

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